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DEC 22 2005

In re Application of :
Susnow, et al. :
Application No. 09/842,019 : DECISION ON PETITION
Filed: April 26, 2001 :
For: 219.40042X00 :
:

OFFICE OF PETITIONS

This is a decision on the petition under 37 CFR 1.137(a), and, alternatively, under 37 CFR 1.137(b), filed October 31, 2005, to revive the above-identified application.

The petition under 37 CFR 1.137(a) is **GRANTED**.

The petition under 37 CFR 1.137(b) is **DISMISSED AS MOOT**.

The application became abandoned January 28, 2005 for failure to timely submit a proper response to the non-final Office action mailed October 27, 2004. The non-final Office action set a three month statutory period of time for reply. No petition for extension of time under 37 CFR 1.136 is of record. Notice of Abandonment was mailed June 2, 2005.

DECISION UNDER 37 CFR 1.137(a)

A grantable petition under 37 CFR 1.137(a) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(l); (3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c).

The instant petition has been reviewed and found in compliance with the provisions of 37 CFR 1.137(a). (See, MPEP 711.03(c) as relates to abandonment attributed to change of correspondence address.) Accordingly, the failure to timely submit a proper reply to the Office communication is accepted as having been unavoidably delayed.

DECISION UNDER 37 CFR 1.137(b)

In view of the decision under 37 CFR 1.137(a), the petition under 37 CFR 1.137(b) has not been considered on the merits and is deemed moot. Accordingly, petitioners are entitled to a refund of the \$1,500.00 petition fee submitted in this regard. Petitioners may request a refund by writing to the Finance Office, Refund Section. A copy of this decision should accompany any request for refund.

This application is being forwarded to the Technology Center 2600 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.



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Office of Petitions